

## Chapter 11. Identification and Listing of Hazardous Waste

### Article 1. General

#### §66261.1. Purpose and Scope.

(a) This chapter identifies those wastes which are subject to regulation as hazardous wastes under this division and which are subject to the notification requirements of Health and Safety Code section 25153.6. In this chapter:

(1) article 1 defines the terms "waste" and "hazardous waste," identifies those wastes which are excluded from regulation under this division, and establishes special management requirements for hazardous waste which is recycled and establishes rules for classifying and managing contaminated containers;

(2) article 2 sets forth the criteria used by the Department to identify characteristics of hazardous waste;

(3) article 3 identifies characteristics of hazardous waste;

(4) article 4 lists particular hazardous wastes;

(5) article 4.1 lists other hazardous wastes;

(6) article 5 identifies categories of hazardous waste including RCRA hazardous waste, non-RCRA hazardous waste, extremely hazardous waste, and special waste, and establishes criteria and management standards for special waste and extremely hazardous waste;

(b)(1) The definition of waste contained in this chapter applies only to wastes that also are hazardous pursuant to this division and chapter 6.5 of division 20 of the Health and Safety Code. It does not apply to materials (such as non-hazardous scrap, paper, textiles, or rubber) that are not otherwise hazardous wastes.

(2) This chapter identifies only some of the materials which are wastes and hazardous wastes for the purposes of Health and Safety Code sections 25185 and 25187.1. A material which is not defined as a waste or identified as a hazardous waste pursuant to this chapter, is still a waste and a hazardous waste for purposes of Health and Safety Code sections 25185 and 25187.1, if the Department has reason to believe that a material may be a waste within the meaning of Health and Safety Code section 25124 and a hazardous waste within the meaning of Health and Safety Code section 25117.

NOTE: Authority cited: Sections 25140, 25141, 25150, 25159 and 58012, Health and Safety Code. Reference: Sections 25117, 25124, 25140, 25141, 25159, 25159.5, 25185 and 25187.1, Health and Safety Code and 40 CFR Section 261.1.

#### HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).

2. New subsection (a)(5), subsection renumbering and amendment of NOTE filed 2-13-03; operative 3-15-2003 (Register 2003, No. 7).

#### §66261.2. Definition of Waste.

(a) "Waste" means any discarded material of any form (for example, liquid, semi-solid, solid or gaseous) that is not excluded by section 66261.4(a) or section 66261.4(e) or that is not excluded by Health and Safety Code section 25143.2(b) or Health and Safety Code section 25143.2(d).

(b) A discarded material is any material which is any of the following:

(1) relinquished as explained in subsection (c) of this section; or

(2) recycled, as explained in subsection (d) of this section; or

(3) considered inherently waste-like, as explained in paragraph (e) of this section.

(c) A material is a waste if it is relinquished by being any of the following:

(1) disposed of;

(2) burned or incinerated;

(3) accumulated, stored or treated, but not recycled, before or in lieu of, being relinquished by being disposed of, burned or incinerated.

(d) A material is a waste if it is recycled, or accumulated, stored or treated before recycling, by being managed:

(1) through being used in a manner constituting disposal:

(A) materials noted with an "\*" in column 1 of Table I are wastes when they are:

1. applied to or placed on the land in a manner that constitutes disposal; or

2. used to produce products that are applied to or placed on the land or are otherwise contained in products that are applied to or placed on the land (in which cases the product itself is a waste);

(B) however, commercial chemical materials listed in section 66261.33, which are discarded commercial chemical products, off-specification species, container residues, or spill residues thereof, and which are applied to the land and application to the land is their ordinary manner of use are non-RCRA hazardous wastes. Commercial chemical products which are "retrograde materials" as defined in section 66260.10 are not wastes until they become "recyclable materials" pursuant to subsection (e) of the definition of "recyclable materials" in section 66260.10;

(2) through being burned for energy recovery:

(A) materials noted with an "\*" in column 2 of Table 1 are wastes when they are:

1. burned to recover energy;

2. used to produce a fuel or are otherwise contained in fuels (in which cases the fuel itself is a waste);

(B) however, commercial chemical materials listed in section 66261.33, which are discarded commercial chemical products, off-specification species, container residues, or spill residues thereof, and which are fuels are non-RCRA hazardous wastes. Commercial chemical products which are “retrograde materials” as defined in section 66260.10 are not wastes until they become “recyclable materials” pursuant to subsection (e) of the definition of “recyclable materials” in section 66260.10

(3) through being reclaimed: materials noted with an “\*” or “\*\*” in column 3 of Table 1 are wastes when reclaimed;

(4) through being accumulated speculatively: materials noted with an “\*” or “\*\*” in column 4 of Table 1 are wastes when accumulated speculatively.

Table 1				
Column	Use Constituting Disposal 66261.2(d)(1) (1)	Energy Recovery/Fuel 66261.2(d)(2) (2)	Reclamation 66261.2(d)(3) (3)	Speculative Accumulation 66261.2(d)(4) (4)
Spent Materials	*	*	*	*
Sludges (listed in section 66261.31 or 66261.32)	*	*	*	*
Sludges exhibiting a characteristic of hazardous waste	*	*	**	*
By-products (listed in section 66261.31 or 66261.32)	*	*	*	*
By-products exhibiting a characteristic of hazardous waste	*	*	**	*
Commercial chemical products (listed in section 66261.33)	*	*	**	**

**Note:** The terms “spent materials,” “sludges,” and “by-products” are defined in section 66260.10.

\*Except as provided in sections 66261.2(d)(1)(B) and 66261.2(d)(2)(B), a material designated by a single asterisk in Column (1), (2), (3), or (4) is a waste which is not eligible to be classified as a non-RCRA hazardous waste.

\*\*Unless exempt pursuant to Health and Safety Code section 25143.2(d), a material designated with a double asterisk in Column (3) or (4) which is identified as a hazardous waste pursuant to section 66261.3 is a non-RCRA hazardous waste. Commercial chemical products which are “retrograde materials” as defined in section 66260.10 are not wastes until they become “recyclable materials” pursuant to subsection (e) of the definition of “recyclable materials” in section 66260.10.

(e) A material is a waste if it is inherently waste-like when it is recycled. The following materials are wastes when they are recycled:

(1) Hazardous Waste Nos. F020, F021 (unless used as an ingredient to make a product at the site of generation), F022, F023, F026 and F028.

(2) Secondary materials fed to a halogen acid furnace that exhibit a characteristic of a hazardous waste or are listed as a hazardous waste as defined in articles 3 or 4 of this chapter, except for brominated material that meets the following criteria:

(A) The material must contain a bromine concentration of at least 45%; and

(B) The materials must contain less than a total of 1% of toxic organic compounds listed in appendix VIII;

and

(C) The material is processed continually on-site in the halogen acid furnace via direct conveyance (hard piping).

(f) A material is a waste if it poses a threat to human health or the environment and meets either, or both, of the following:

(1) it is mislabeled or not adequately labeled, unless the material is correctly labeled or adequately labeled

within 10 days after the material is discovered to be mislabeled or inadequately labeled;

(2) it is packaged in deteriorated or damaged containers, unless the material is contained in sound or undamaged containers within 96 hours after the containers are discovered to be deteriorated or damaged.

(g) Respondents in actions to enforce regulations implementing this division who claim that a certain material is not a waste or is conditionally exempt from regulation, must demonstrate that there is a known market or disposition for the material, and that they meet the terms of the exclusion or exemption. In doing so, they must provide appropriate documentation (such as contracts showing that a second person uses the material as an ingredient in a production process) to demonstrate that the material is not a waste, or is exempt from regulation. In addition, owners and operators of facilities claiming that they are recycling materials must show that they have the necessary equipment to do so.

NOTE: Authority cited: Sections 25141, 25150, 25159, 25159.5, 58004 and 58012, Health and Safety Code.  
Reference: Sections 25120.5, 25121, 25124, 25143.2, 25159 and 25159.5, Health and Safety Code; 40 CFR Section 261.2.

#### HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).
2. Amendment of subsection (a) and NOTE filed 4-23-92 as an emergency; operative 4-23-92 (Register 92, No. 18). A Certificate of Compliance must be transmitted to OAL 8-21-92 or emergency language will be repealed by operation of law on the following day.
3. Amendment of subsection (a) refiled 6-22-92 as an emergency; operative 6-22-92 (Register 92, No. 26). A Certificate of Compliance must be transmitted to OAL by 10-20-92 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsection (a) refiled 10-22-92 as an emergency; operative 10-19-92 (Register 92, No. 43). A Certificate of Compliance must be transmitted to OAL 2-22-93 or emergency language will be repealed by operation of law on the following day.
5. Amendment of subsection (a) refiled 2-16-93 as an emergency; operative 2-16-93 (Register 93, No. 8). A Certificate of Compliance must be transmitted to OAL 6-16-93 or emergency language will be repealed by operative of law on the following day.
6. Amendment of subsection (a) refiled 6-14-93 as an emergency; operative 6-15-93 (Register 93, No. 25). A Certificate of Compliance must be transmitted to OAL by 10-13-93 or emergency language will be repealed by operation of law on the following day.
7. Amendment of subsection (a) refiled 10-13-93 as an emergency; operative 10-13-93 (Register 93, No. 42). A Certificate of Compliance must be transmitted to OAL by 2-10-94 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 10-13-93 order transmitted to OAL 12-3-93 and filed 1-14-94 (Register 94, No. 2).
9. Amendment of subsection (e), new subsection (e)(1) designator, new subsections (e)(2)-(e)(2)(C), and amendment of NOTE filed 7-1-96; operative 7-31-96 (Register 96, No. 27).
10. New subsection (g) filed 2-3-98; operative 3-5-98 (Register 98, No. 6).

#### **§66261.3. Definition of Hazardous Waste.**

(a) A waste, as defined in section 66261.2, is a hazardous waste if:

(1) it is not excluded from classification as a waste or a hazardous waste under Health and Safety Code section 25143.2(b) or 25143.2(d) or section 66261.4; and

(2) it meets any of the following criteria:

(A) it exhibits any of the characteristics of hazardous waste identified in article 3 of this chapter except that any mixture of a waste from the extraction, beneficiation, and processing of ores and minerals excluded under 40 CFR section 261.4(b)(7) and any other solid waste exhibiting a characteristic of hazardous waste under Article 3 of this chapter only if it exhibits a characteristic that would not have been exhibited by the excluded waste alone if such mixture had not occurred or if it continues to exhibit any of the characteristics exhibited by the non-excluded wastes prior to mixture. Further, for the purposes of applying the Toxicity Characteristic to such mixtures, the mixture is also a hazardous waste if it exceeds the maximum concentrations for any contaminant listed in table I to section 66261.24 that would not have been exceeded by the excluded waste alone if the mixture had not occurred or if it continues to exceed the maximum concentration for any contaminant exceeded by the nonexempt waste prior to mixture;

(B) it is listed in article 4 of this chapter and has not been excluded by the USEPA Administrator from 40 CFR Part 261 Subpart D pursuant to 40 CFR sections 260.20 and 260.22;

(C) it is listed in or contains a constituent listed in Appendix X to this chapter. However, the waste is not a hazardous waste if:

1. it is determined that the waste does not meet the criteria of subsection (a)(2)(B) of this section; and
2. it is determined that the waste does not meet the criteria of subsection (a)(2)(A) of this section by:
  - i. testing the waste according to the methods set forth in article 3 of this chapter, or according to an equivalent method approved by the Department pursuant to section 66260.21; or
  - ii. applying knowledge of the hazardous properties of the waste in light of the materials or the processes used and the characteristics set forth in article 3 of this chapter;

(D) it is listed in article 4.1 of this chapter;

(E) it is a mixture of a hazardous waste that is listed in article 4 of this chapter other than a hazardous waste

listed with hazard code (T) or (H), and another waste, unless the resultant mixture no longer exhibits any characteristic of hazardous waste identified in article 3 of this chapter. However, nonwastewater mixtures are still subject to the requirements of chapter 18 of this division, even if they no longer exhibit a characteristic at the point of land disposal;

(F) it is a mixture of a waste and one or more hazardous wastes listed in article 4 of this chapter which has not been excluded by the USEPA Administrator from 40 CFR Part 261 Subpart D pursuant to 40 CFR sections 260.20 and 260.22. However, the following mixtures of wastes and hazardous wastes listed in article 4 of this chapter are not hazardous wastes (except by application of subsection (a)(2)(A) or (a)(2)(B) of this section) if the generator can demonstrate that the mixture consists of wastewater, the discharge of which is subject to regulation under either section 402 or section 307(b) of the Clean Water Act (including wastewater at facilities which have eliminated the discharge of wastewater), and:

1. one or more of the following spent solvents listed in section 66261.31 -- carbon tetrachloride, tetrachloroethylene, trichloroethylene -- provided, that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system does not exceed 1 part per million; or

2. one or more of the following spent solvents listed in section 66261.31 -- methylene chloride, 1,1,1-trichloroethane, chlorobenzene, o-dichlorobenzene, cresols, cresylic acid, nitrobenzene, toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, spent chlorofluorocarbon solvents -- provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system does not exceed 25 parts per million; or

3. heat exchanger bundle cleaning sludge from the petroleum refining industry (EPA Hazardous Waste No. K050); or

4. a discarded commercial chemical product, or chemical intermediate listed in section 66261.33 arising from "de minimis" losses of these materials from manufacturing operations in which these materials are used as raw materials or are produced in the manufacturing process. For purposes of this subsection, "de minimis" losses include those from normal material handling operations (e.g., spills from the unloading or transfer of materials from bins or other containers, leaks from pipes, valves or other devices used to transfer materials); minor leaks of process equipment, storage tanks or containers; leaks from well-maintained pump packings and seals; sample purgings; relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; and rinsate from empty containers or from containers that are rendered empty by that rinsing; or

5. wastewater resulting from laboratory operations containing toxic (T) wastes listed in article 4 of this chapter, provided that the annualized average flow of laboratory wastewater does not exceed one percent of total wastewater flow into the headworks of the facility's wastewater treatment or pretreatment system, or provided the wastes, combined annualized average concentration does not exceed one part per million in the headworks of facility's wastewater treatment or pretreatment facility. Toxic (T) wastes used in laboratories that are demonstrated not to be discharged to wastewater are not to be included in this calculation; or

6. One or more of the following wastes listed in 40 CFR § 261.32--wastewaters from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste No. K157)--Provided that the maximum weekly usage of formaldehyde, methyl chloride, methylene chloride, and triethylamine (including all amounts that can not be demonstrated to be reacted in the process, destroyed through treatment, or is recovered, i.e., what is discharged or volatilized) divided by the average weekly flow of process wastewater prior to any dilutions into the headworks of the facility's wastewater treatment system does not exceed a total of 5 parts per million by weight; or

7. Wastewaters derived from the treatment of one or more of the following wastes listed in 40 CFR § 261.32--organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste No. K156).--Provided, that the maximum concentration of formaldehyde, methyl chloride, methylene chloride, and triethylamine prior to any dilutions into the headworks of the facility's wastewater treatment system does not exceed a total of 5 milligrams per liter.

(G) it is not classified as a hazardous waste by application of the criteria in subsections (a)(2)(A) through (a)(2)(F) of this section, but has been classified as a hazardous waste by the Department because it otherwise conforms to the definition of hazardous waste set forth in Health and Safety Code section 25117.

(b) A waste which is not excluded from classification as a waste or hazardous waste under the provisions of section 66261.4(b) or Health and Safety Code section 25143.2(b) or 25143.2(d) becomes a hazardous waste when any of the following events occur:

(1) In the case of a waste listed in article 4 of this chapter, when the waste first meets the listing description set forth in article 4 of this chapter;

(2) In the case of a waste listed in article 4.1 of this chapter, when the waste first meets the listing description set forth in article 4.1 of this chapter;

(3) In the case of a mixture of waste and one or more hazardous wastes listed in article 4 of this chapter, when the hazardous waste listed in article 4 of this chapter is first added to the waste.

(4) In the case of any other waste (including a waste mixture), when the waste exhibits any of the characteristics identified in article 3 of this chapter.

(c)(1) A hazardous waste will remain a hazardous waste unless and until it meets the criteria of subsection (d) of this section. Except as otherwise provided in subsections (c)(2), (c)(3), (c)(4), and (c)(5) of this section, any

waste generated from the treatment, storage, or disposal of a hazardous waste, including any sludge, spill residue, ash, emission control dust or leachate including precipitation run-off is a hazardous waste. (However, materials that are reclaimed from wastes and that are used beneficially are not wastes and hence are not hazardous wastes under this provision unless the reclaimed material is burned for energy recovery or used in a manner constituting disposal.)

(2) Waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry (SIC Codes 331 and 332) is not hazardous even though it is generated from the treatment, storage, or disposal of a hazardous waste, unless it exhibits one or more of the characteristics of hazardous waste.

(3)(A) Nonwastewater residues, such as slag, resulting from high temperature metals recovery (HTMR) processing of K061, K062 or F006 waste, in units identified as rotary kilns, flame reactors, electric furnaces, plasma arc furnaces, slag reactors, rotary hearth furnace/electric furnace combinations or industrial furnaces (as defined in section 66260.10, for "Industrial furnace", (f), (g), and (h)), that are disposed in RCRA Subtitle D units, provided that these residues meet the generic exclusion levels identified below for all constituents, and exhibit no characteristics of hazardous waste, as identified in article 3 of Chapter 11 of division 4.5, Title 22, CCR. Testing requirements shall be incorporated in a facility's waste analysis plan; at a minimum, composite samples of residues shall be collected and analyzed quarterly and/or when the process or operation generating the waste changes. Persons claiming this exclusion in an enforcement action will have the burden of proving by clear and convincing evidence that the material meets all of the exclusion requirements.

Constituent	Maximum for any single composite sample - TCLP mg/L
Generic exclusion levels for K061 and K062 nonwastewater HTMR residues	
Antimony	0.10
Arsenic	0.50
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
Lead	0.15
Mercury	0.009
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70
Generic exclusion levels for F006 nonwastewater HTMR residues	
Antimony	0.10
Arsenic	0.50
Barium	7.6
Beryllium	0.010
Cadmium	0.050
Chromium (total)	0.33
Cyanide (total)(mg/kg)	1.8
Lead	0.15
Mercury	0.009

Constituent	Maximum for any single composite sample - TCLP mg/L
Nickel	1.0
Selenium	0.16
Silver	0.30
Thallium	0.020
Zinc	70

(B) A one-time notification and certification shall be placed in the facility's files and sent to the Department for K061, K062 or F006 HTMR residues that meet the generic exclusion levels for all constituents and do not exhibit any characteristics in article 3 of chapter 11 that are sent to a RCRA subtitle D unit. The notification and certification that is placed in the generators or treaters files shall be updated if the process or operation generating the waste changes and/or if the 40 CFR subtitle D unit receiving the waste changes. However, the generator or treater need only notify the Department on an annual basis if such changes occur. Such notification and certification should be sent to the Department by the end of the calendar year, but no later than December 31.

The notification shall include the following information: (1) The name and address of the RCRA Subtitle D unit receiving the waste shipments; (2) the EPA hazardous waste number(s) and treatability group(s) at the initial point of generation; and (3) the treatment standards applicable to the waste at the initial point of generation. The certification shall be signed by an authorized representative and shall state as follows: "I certify under penalty of law that the generic exclusion levels for all constituents have been met without impermissible dilution and that no characteristic of hazardous waste, as identified in article 3 of chapter 11 of division 4.5, Title 22, CCR, is exhibited. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

(4) Biological treatment sludge from the treatment of one of the following wastes listed in 40 CFR § 261.32 - organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste No. K156), and wastewaters from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste No. K157) - is not a hazardous waste even though it is generated from the treatment, storage, or disposal of a hazardous waste, unless it exhibits one or more of the characteristics of hazardous waste.

(5) Waste consisting of only material derived from the treatment or recycling of one or more hazardous wastes listed in article 4.1 of this chapter is not a hazardous waste, provided the material does not exhibit any of the characteristics identified in article 3 of this chapter, and does not meet any listing description in article 4.1 of this chapter.

(d) Any waste described in subsection (c) of this section is not a hazardous waste if it meets all of the following criteria:

(1) the waste does not exhibit any of the characteristics of hazardous waste identified in article 3 of this chapter; (however, wastes that exhibit a characteristic at the point of generation may still be subject to the requirements of chapter 18, even if they no longer exhibit a characteristic at the point of land disposal.)

(2) in the case of a waste which is a waste listed in article 4 of this chapter, contains a waste listed under article 4 of this chapter or is derived from a waste listed in article 4 of this chapter (but not including precipitation run off), the waste also has been excluded by the USEPA Administrator from the lists of hazardous wastes in 40 CFR Part 261 Subpart D pursuant to 40 CFR sections 260.20 and 260.22, and

(3) the waste is not listed in article 4.1.

(e) Notwithstanding subsections (a) through (d) of this section and provided the debris as defined in section 66260.10 of chapter 10 of this division does not exhibit a characteristic identified in article 3 of chapter 11, the following materials are not subject to regulation under chapters 10, 11 to 16, 18 or 20 of this division;

(1) Hazardous debris as defined in section 66260.10 of chapter 10 of this division that has been treated using one of the required extraction or destruction technologies specified in Table 1 of section 66268.45; persons claiming this exclusion in an enforcement action will have the burden of proving by clear and convincing evidence that the material meets all of the exclusion requirements; or

(2) Debris as defined in 66260.10 of chapter 10 of this division that the Department considering the extent of contamination, has determined is no longer contaminated with hazardous waste.

NOTE: Authority cited: Sections 25141, 25150, 25159, 25159.5, 25179.6, 58004 and 58012, Health and Safety Code. Reference: Sections 25117, 25141, 25143.1, 25159, 25159.5 and 58012, Health and Safety Code; and 40 CFR Section 261.3.

#### HISTORY

1. New section filed 5-24-91; effective 7-1-91 (Register 91, No. 22).

2. Amendment of subsection (a)(2)(D), new subsections (c)(3)(A)-(B), amendment of subsection (d)(1), new subsections (e)-(e)(2) and amendment of Note filed 10-24-94 as an emergency; operative 10-24-94 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-20-95 or emergency language will be repealed by

operation of law on the following day.

3. Amendment of subsection (a)(2)(D), new subsections (c)(3)(A)-(B), amendment of subsection (d)(1), new subsections (e)-(e)(2) and amendment of Note refiled 2-21-95 as an emergency; operative 2-21-95 (Register 95, No. 8). A Certificate of Compliance must be transmitted to OAL by 6-21-95 or emergency language will be repealed by operation of law on the following day.

4. Amendment of subsection (a)(2)(D), new subsections (c)(3)(A)-(B), amendment of subsection (d)(1), new subsections (e)-(e)(2) and amendment of NOTE refiled 6-19-95 as an emergency; operative 6-19-95 (Register 95, No. 25). A Certificate of Compliance must be transmitted to OAL by 10-17-95 or emergency language will be repealed by operation of law on the following day.

5. Amendment of subsection (a)(2)(D), new subsections (c)(3)(A)-(B), amendment of subsection (d)(1), new subsections (e)-(e)(2) and amendment of NOTE refiled 10-16-95 as an emergency; operative 10-16-95 (Register 95, No. 42). A Certificate of Compliance must be transmitted to OAL by 2-13-96 or emergency language will be repealed by operation of law on the following day.

6. Certificate of Compliance as to 10-24-94 order including amendment of subsections (c)(1)-(c)(3)(B) and (d)(1)-(e)(1) and amendment of NOTE transmitted to OAL 12-15-95 and filed 1-31-96 (Register 96, No. 5).

7. Change without regulatory effect amending subsections (c)(3)(A), (c)(3)(B), (d) and (e) filed 8-15-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 33).

8. Amendment of subsections (a)(2)(A) and (a)(2)(E)5., new subsections (a)(2)(E)6., (a)(2)(E)7. and (c)(4), and amendment of NOTE filed 10-13-98; operative 11-12-98 (Register 98, No. 42).

9. Amendment filed 2-13-2003; operative 3-15-2003 (Register 2003, No. 7).

#### **§66261.4. Exclusions.**

(a) Materials which are not wastes. The following materials are not wastes for the purpose of this chapter:

(1) industrial wastewater discharges that are point source discharges subject to regulation under section 402 of the federal Clean Water Act, as amended (33 U.S.C. section 1342). This exclusion applies only to the actual point source discharge. It does not exclude industrial wastewaters while they are being collected, stored or treated before discharge, nor does it exclude sludges that are generated by industrial wastewater treatment;

(2) source, special nuclear or by-product material as defined by the federal Atomic Energy Act of 1954, as amended, (42 U.S.C. section 2011 et seq.);

(3) spent sulfuric acid used to produce virgin sulfuric acid, unless it is accumulated speculatively as defined in section 66260.10.

(4) pulping liquors (e.g., black liquor) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless accumulated speculatively as defined in 66260.10.

(5) secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process provided:

(A) only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;

(B) reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);

(C) the materials are never accumulated in such tanks for over twelve months without being reclaimed; and

(D) the reclaimed material is not used to produce a fuel, or used to produce products that are used in a manner constituting disposal.

(b) Wastes which are not hazardous wastes. The following wastes are not hazardous wastes:

(1) infectious waste which consists solely of the carcasses of animals, which is not otherwise hazardous, and which is handled, stored and disposed of according to all applicable requirements established by the Department of Food and Agriculture pursuant to provisions of chapter 1, part 1, division 5 (commencing with section 9101) and of chapter 5, part 3, division 9 (commencing with section 19200) of the Food and Agricultural Code;

(2) materials which are exempted or excluded from classification as solid waste or hazardous waste pursuant to 40 CFR section 261.4 provided they are not listed in article 4.1 of this chapter, and do not exhibit a characteristic of a hazardous waste as set forth in article 3 of this chapter;

(3) used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products;

(4) used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment, including mobile air conditioning systems, mobile refrigeration, and commercial and industrial air conditioning and refrigeration systems that use chlorofluorocarbons as the heat transfer fluid in a refrigeration cycle, provided the refrigerant is reclaimed for further use.

(5)(A) Solid wastes, which meet the criteria for classification as a RCRA hazardous waste set forth in section 66261.100(a)(1), (a)(2), or (a)(3), from the extraction, beneficiation, and processing of ores and minerals (including coal, phosphate rock and overburden from the mining of uranium ore), except as provided by 40 CFR section 266.112 for facilities that burn or process hazardous waste, are not hazardous wastes and are not subject to the requirements of this division or of Chapter 6.5 of Division 20 of the Health and Safety Code. However, these wastes remain subject to Article 9.5 of Chapter 6.5 of the Health and Safety Code if the wastes would otherwise be classified as hazardous wastes pursuant to section 25117 of the Health and Safety Code or pursuant to this division. For purposes of this paragraph, beneficiation of ores and minerals is restricted to the following activities: Crushing; grinding; washing; dissolution; crystallization; filtration; sorting; sizing; drying; sintering; pelletizing; briquetting; calcining to remove water and/or carbon dioxide; roasting; autoclaving, and/or chlorination in preparation for leaching

(except where the roasting (and/or autoclaving and/or chlorination)/leaching sequence produces a final or intermediate product that does not undergo further beneficiation or processing); gravity concentration; magnetic separation; electrostatic separation; flotation; ion exchange; solvent extraction; electrowinning; precipitation; amalgamation; and heap, dump, vat, tank, and in situ leaching. For the purpose of this paragraph, solid waste from the processing of ores and minerals includes only the following wastes:

1. Slag from primary copper processing;
2. Slag from primary lead processing;
3. Red and brown muds from bauxite refining;
4. Phosphogypsum from phosphoric acid production;
5. Slag from elemental phosphorus production;
6. Gasifier ash from coal gasification;
7. Process wastewater from coal gasification;
8. Calcium sulfate wastewater treatment plant sludge from primary copper processing;
9. Slag tailings from primary copper processing;
10. Fluorogypsum from hydrofluoric acid production;
11. Process wastewater from hydrofluoric acid production;
12. Air pollution control dust/sludge from iron blast furnaces;
13. Iron blast furnace slag;
14. Treated residue from roasting/leaching of chrome ore;
15. Process wastewater from primary magnesium processing by the anhydrous process;
16. Process wastewater from phosphoric acid production;
17. Basic oxygen furnace and open hearth furnace air pollution control dust/sludge from carbon steel production;
18. Basic oxygen furnace and open hearth furnace slag from carbon steel production;
19. Chloride process waste solids from titanium tetrachloride production;
20. Slag from primary zinc processing.

(B) Waste from the extraction, beneficiation, and processing of ores and minerals, as those terms are defined in Health and Safety Code section 25143.1, which would otherwise be classified as a non-RCRA hazardous waste pursuant to section 66261.101, is not subject to the requirements of this division or of Chapter 6.5 of the Health and Safety Code. However, these wastes remain subject to Article 9.5 of Chapter 6.5 of the Health and Safety Code if the wastes would otherwise be classified as hazardous wastes pursuant to section 25117 of the Health and Safety Code or to this division.

(c) hazardous wastes which are exempted from certain regulations. A hazardous waste which is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated non-waste-treatment-manufacturing unit, is not subject to regulation under this division or to the notification requirements of Health and Safety Code section 25153.6 until it exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for manufacturing, or for storage or transportation of product or raw materials. The exemption in this subsection applies only to the hazardous waste generated in the above-named tanks, not to the tanks themselves. The tanks remain subject to the requirements of chapter 32 if the tank is a hazardous waste pursuant to article 3 of chapter 11 of this division.

(d) samples;

(1) except as provided in subsection (d)(2) of this section, a sample of waste or a sample of water, soil, or air, which is collected for the sole purpose of testing to determine its characteristics or composition, is not subject to any requirements of this division or to the notification requirements of Health and Safety Code section 25153.6 when:

- (A) the sample is being transported to a laboratory for the purpose of testing; or
- (B) the sample is being transported back to the sample collector after testing; or
- (C) the sample is being stored for less than 90 days by the sample collector before transport to a laboratory for testing; or
- (D) the sample is being stored in a laboratory before testing; or
- (E) the sample is being stored in a laboratory after testing but before it is returned to the sample collector; or
- (F) the sample is being stored temporarily in the laboratory after testing for a specific purpose (for example, until conclusion of a court case or enforcement action where further testing of the sample may be necessary).

(2) In order to qualify for the exemption in subsections (d)(1)(A) and (d)(1)(B) of this section, a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector shall:

- (A) comply with California Highway Patrol (CHP), U.S. Department of Transportation (DOT), U.S. Postal Service (USPS), or any other applicable shipping requirements; or
- (B) comply with the following requirements if the sample collector determines that CHP, DOT, USPS, or other shipping requirements do not apply to the shipment of the sample:

1. assure that the following information accompanies the sample:
  - a. the sample collector's name, mailing address, and telephone number;
  - b. the laboratory's name, mailing address, and telephone number;
  - c. the quantity of the sample;
  - d. the date of shipment; and
  - e. a description of the sample.



2. package the sample so that it does not leak, spill, or vaporize from its packaging.

(3) This exemption does not apply if the laboratory determines that the waste is hazardous but the laboratory is no longer meeting any of the conditions stated in subsection (d)(1) of this section.

(e) Treatability Study Samples.

(1) Except as provided in paragraph (e)(2) of this section, any person who generates a treatability study sample for the purpose of conducting a treatability study is not subject to Chapter 6.5 of Division 20 of the Health and Safety Code with respect to that sample, except for the requirements of subdivision (e) of Health and Safety Code section 25162, or this division, except for sections 66262.50, 66262.52, and 66262.53 when:

(A) the treatability study sample is being collected and prepared for transportation by the generator or the agent of the generator;

(B) the treatability study sample is being accumulated or stored by the generator or the agent of the generator prior to transportation to a laboratory or testing facility; or,

(C) the treatability study sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study.

(2) The exemption specified in paragraph (e)(1) of this section applies to samples of hazardous waste being collected and shipped for the purpose of conducting treatability studies only if all of the following conditions are met:

(A) the treatability study sample mass is not more than 400 kilograms (kg) of any hazardous waste that is not an extremely hazardous waste, 1 kg of extremely hazardous waste, or 250 kg of soil, water, or debris contaminated with extremely hazardous waste, for each process being evaluated for each generated hazardous waste stream,

(B) the treatability study sample is retained at the site of generation for not longer than one year and not more than 10 days elapse between when the treatability study sample is shipped to the laboratory or testing facility and when it is received at the laboratory or testing facility,

(C) the generator or the agent of the generator retains responsibility for the recycling or disposal of the treatability study sample or its residues after the treatability study is completed;

(D) at all times during accumulation and storage, the treatability study samples are in containers that are marked clearly with the words "treatability study sample," that are in a good, nonleaking condition and that are clearly labeled with all of the following information:

1. the composition and physical state of the material;
2. a statement that calls attention to the particular hazardous properties of the treatability study sample;
3. the name and address of the generator of the treatability study sample; and
4. the date the treatability study sample was first placed in the containers.

(3) each treatability study sample may be transported only if the treatability study sample complies with all of the following:

(A) the treatability study sample is packaged so that it will not leak, spill, or vaporize from its packaging during shipment, complies with all shipping requirements of the Department of Transportation, United States Postal Service, or any other applicable shipping requirements, and, at a minimum, is accompanied by all of the following information:

1. the name, mailing address, telephone number, and Environmental Protection Agency identification number, if available, of the generator of the treatability study sample or the agent of the generator.
2. The name, address, telephone number, and EPA number, if available, of the facility that will perform the treatability study.
3. The quantity of the treatability study sample.
4. The date of shipment.
5. A description of the treatability study sample, including its California waste code.

(B) The treatability study sample is shipped to a laboratory or testing facility which has a hazardous waste facilities permit issued pursuant to Health and Safety Code section 25200, is exempt from state hazardous waste facilities permitting requirements pursuant to subsection (f) of section 66261.4 of this title or, if located in another state, is authorized by that state or the Environmental Protection Agency to conduct treatability studies or is exempted pursuant to subsection (f) of Section 261.4 of Title 40 of the Code of Federal Regulations.

(4) A generator or the agent of the generator exempt pursuant to this section shall maintain the following records for three years after completion of the treatability study and shall, if requested by the department before the end of three years, retain the records for up to an additional five years:

(A) Copies of shipping documents.

(B) A copy of the contract with the facility conducting the treatability study.

(C) Documentation showing the amount of waste shipped, the name and address of the laboratory or testing facility that received the waste, the date the shipment was made, and the final disposition of unused portions of samples and residues.

(5) The department may grant an application, on a case-by-case basis, following the submittal of information pursuant to subdivision (e)(6) for an exemption for treatability study samples that exceed the quantity limits specified in subdivision (e)(2)(A), for up to an additional 500 kg of hazardous waste that is not extremely hazardous waste, 1 kg of extremely hazardous waste, and 250 kg of soil, water, or debris contaminated with extremely hazardous waste, to conduct a further treatability study evaluation, if the department finds that the exemption is necessary based on any of the following:

(A) There has been an equipment or mechanical failure during the conduct of a treatability study rendering

the treatability study sample unsuited for study.

(B) There is a need to repeat a portion of a previously conducted treatability study.

(C) There is a need to study and analyze alternative techniques within a treatability study and these multiple techniques required greater total sample size.

(D) The treatability study design cannot produce verifiable results without greater quantities of a sample.

(6) A generator applying for an exemption pursuant to subdivision (e)(5) shall submit all of the following information in writing to the department:

(A) The reason why the generator or agent of the generator requires an additional quantity of a treatability study sample for the treatability study.

(B) The quantity of the treatability study sample for which the exemption is requested.

(C) Documentation accounting for all samples of treatability study samples from the waste stream that have previously been sent for, or undergone, treatability studies, including the dates of each previous treatability study sample, the quantity of each previous treatability study sample, the laboratory or testing facility to which each treatability study sample was shipped, what treatability studies were conducted on each treatability study sample shipped, and the results of each treatability study.

(D) If the generator cites paragraph (C) of subdivision (e)(5) as the basis for the exemption, a description of the proposed technique or techniques to be evaluated.

(E) If the generator cites paragraph (A) of subdivision (e)(5) as the basis for the exemption, information regarding the reasons for the failure or breakdown and what procedures or improvements have been made to protect against further breakdowns.

(f) Samples Undergoing Treatability Studies at Laboratories and Testing Facilities;

(1) Except as provided in subdivision (f)(2), Chapter 6.5 of Division 20 of the Health and Safety Code, and division 4.5 of this title, do not apply to any treatability study sample undergoing a treatability study, and those activities of the laboratory or testing facility, including transportable treatment units, conducting a treatability study, that are activities exclusively devoted to, and in support of, the treatability study conducted on a treatability study sample, if all of the following conditions are met:

(A) If a group of two or more transportable treatment units are located at the same site, the requirements specified in subdivision (f)(1) apply to the entire group of transportable treatment units collectively as if the group were one unit.

(B) Not less than 45 days before conducting the treatability study, the facility notifies the department in writing, that it intends to conduct a treatability study pursuant to this subsection.

(C) The laboratory or testing facility conducting the treatability study has an Environmental Protection Agency identification number.

(D) Not more than a total of 250 kg of treatability study samples are subjected to initiation of treatment in all treatability studies in any single day.

(E) The quantity of treatability study samples stored at the facility for the purpose of evaluation in treatability studies does not exceed 400 kg, the total of which may include not more than 200 kg of soil, water, or debris contaminated with extremely hazardous waste or 1 kg of extremely hazardous waste. This quantity limitation does not include either of the following:

1. Treatability study residues.

2. Treatment materials, including nonhazardous waste, added to treatability study samples as received hazardous waste.

(F) Not more than 90 days has elapsed since the treatability study for the treatability study sample was completed, or not more than one year have elapsed since the generator or treatability study sample collector shipped the treatability study sample to the laboratory or testing facility, whichever date first occurs.

(G) The treatability study does not involve the placement of hazardous waste on the land, incineration, or the open burning of hazardous waste.

(H) The facility maintains records for three years following completion of each study that show compliance with the treatment rate limits and the storage time and quantity limits. All of the following specific information shall be included for each treatability study conducted:

1. The name, address, and Environmental Protection Agency identification number of the generator or agent of the generator of each treatability study sample.

2. The date the treatability study sample was received.

3. The quantity of treatability study sample accepted.

4. The quantity of treatability study samples in storage each day.

5. The date the treatability study was initiated and the amount of treatability study samples introduced to treatment each day.

6. The date the treatability study was concluded.

7. The date any unused treatability study sample or residues generated from the treatability study were returned to the generator or the agent of the generator or, if sent to a designated facility, the name of the facility and the Environmental Protection Agency identification number.

(I) The facility keeps, onsite, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending three years from the completion date of each treatability study.

(J) The facility prepares and submits a report to the department not later than March 15 of each year that

estimates the number of studies and the amount of waste expected to be used in treatability studies during the current year, and includes all of the following information for the previous calendar year:

1. The name, address, and Environmental Protection Agency identification number of the facility conducting the treatability studies.

2. The numbers of, and types, by process, of treatability studies conducted.

3. The names and addresses of persons for whom studies have been conducted, including their Environmental Protection Agency identification numbers.

4. The total quantity of hazardous waste in storage each day.

5. The quantity and types of hazardous waste subjected to treatability studies.

6. When each treatability study was conducted.

7. The final disposition of residues and unused treatability study samples from each treatability study.

(K) The facility determines whether any unused treatability study sample or residues generated by the treatability study are hazardous waste that are subject to Chapter 6.5 of Division 20 of the Health and Safety Code, and division 4.5 of this title, and, if so, the facility handles the unused treatability study sample or residues in accordance with Chapter 6.5 of Division 20 of the Health and Safety Code, and division 4.5 of this title, unless the residues and unused treatability study samples are returned to the treatability study sample originator, as specified in Health and Safety Code section 25158.2.

(L) The facility notifies the department by letter when the facility is no longer planning to conduct any treatability studies at the site.

(M) All treatability studies shall be initiated within 60 days of the receipt of each treatability study sample.

(2) The requirements of subdivision (e) of Health and Safety Code section 25162, and sections 66262.50, 66262.52, and 66262.53 of this title shall apply to a sample undergoing a treatability study, including those activities of the laboratory or testing facility conducting the treatability study.

(g) controlled substances;

(1) A conditionally exempt controlled substance, as defined in paragraph (2) of this subsection, which is managed in accordance with the requirements of paragraph (3) of this subsection, is not a waste for purposes of this division or Health and Safety Code, division 20, chapter 6.5.

(2) For the purposes of this division, a conditionally exempt controlled substance is a "controlled substance", as defined in section 11007 of the Health and Safety Code, which meets all of the following conditions:

(A) the controlled substance is a discarded material (as defined in section 66261.2(b)) which is not excluded from the definition of a "waste" (as defined in section 66261.2(a)), except pursuant to the provisions of this subsection;

(B) the controlled substance is solely a non-RCRA hazardous waste, or the controlled substance or its management is exempt or conditionally exempt from, or is not otherwise regulated pursuant to, RCRA;

(C) the controlled substance was seized by a peace officer, as defined in section 830 of the Penal Code, or a person exercising the powers of a peace officer pursuant to section 830.8 of the Penal Code or otherwise authorized to exercise the powers of a peace officer pursuant to applicable federal laws; and

(D) the controlled substance was seized from a site other than a clandestine laboratory, or the controlled substance was seized from such a laboratory for use as evidence or as a sample for purposes of testing.

(3) A conditionally exempt controlled substance shall be managed in accordance with the following requirements:

(A) conditionally exempt controlled substances shall be held in containers which are managed in accordance with the requirements of sections 66265.171, 66265.172, 66265.173 and 66265.177;

(B) conditionally exempt controlled substances shall be stored in an area:

1. with ventilation approved by the local fire department,

2. separate from controlled substances which are not conditionally exempt pursuant to this subsection and other chemicals seized from clandestine laboratories, and

3. under the control of employees of a federal, state or local law enforcement agency;

(C) transportation of conditionally exempt controlled substances shall be in accordance with the following requirements:

1. conditionally exempt controlled substances shall be transported by employees of a federal, state or local law enforcement agency;

2. during transportation, the conditionally exempt controlled substances shall be accompanied by a shipping paper which, at a minimum, shall provide the following information:

a. a list of the substances being transported;

b. the type and number of containers being used to transport each type of substance;

c. the quantity, by weight or volume, of each type of substance being transported (if known);

d. the state(s) (e.g., solid, powder, liquid, semi-liquid, gas, etc.) of each type of substance being transported;

e. the final destination and interim destinations, if any, of the substances;

f. the name and telephone number of an emergency response contact, for use in the event of a spill or other release;

g. the name, address and telephone number of the law enforcement agency from which the shipment originates, the printed name and signature of the peace officer authorizing the shipment, and the date the shipment originates;

h. the name, address, telephone number and signature of the law enforcement agency employee(s)

responsible for the custody and security of the substances during transportation; and

i. the name, address and telephone number of the facility which is the final destination of the substances; and

3. in the event of a spill or release of a conditionally exempt controlled substance during transportation, the law enforcement agency employee responsible for the substance during transportation shall take appropriate immediate action to protect human health and the environment (e.g., notify local law enforcement agencies and/or other local emergency response agencies, dike the spill area, etc.). The law enforcement agency employee responsible for the released substance during transportation shall clean up or provide for the clean up of the spilled or released substance, or take such other action as may be required or approved by Federal, State, or local officials to ensure that the release no longer presents a hazard to human health or the environment;

(D) treatment of conditionally exempt controlled substances shall be limited to:

1. incineration in accordance with paragraphs (3)(E) of this subsection; and

2. the addition of absorbent material to a conditionally exempt controlled substance in a container or the addition of a conditionally exempt controlled substance to absorbent material in a container, in conjunction with incineration pursuant to paragraphs (3)(E) of this subsection;

(E) incineration of conditionally exempt controlled substances pursuant to this subsection shall be subject to the following requirements and limitations:

1. conditionally exempt controlled substances shall be incinerated under the following operating conditions:

a. incineration shall be in an airtight combustion device operated under negative air pressure through the combustion zone;

b. a feed airlock or an equivalent mechanism shall be used to prevent fugitive emissions;

c. the temperature in the combustion zone shall be maintained at or above 1600 degrees Fahrenheit for a minimum residence time of one second;

d. when only controlled substances are being incinerated, the controlled substance feed rate shall be between 25 percent and 75 percent of the incinerator's thermal design capacity;

e. when controlled substances are being incinerated with other materials, the total feed rate shall be greater than 40 percent, and no more than 100 percent, of the incinerator's thermal design capacity; and

f. if the incineration facility is not equipped with emissions control devices (e.g., scrubbers), the controlled substances feed rate shall be limited to 40 pounds per hour; and

2. the incineration facility shall comply with all applicable Federal, State and local regulatory agency requirements;

(F) all law enforcement agency and incinerator facility personnel who handle conditionally exempt controlled substances shall complete health and safety training equivalent to the training required under Title 8, CCR, section 5194, within six months after the effective date of these regulations. No personnel shall be newly assigned to handle conditionally exempt controlled substances after the effective date of these regulations until they have completed the required health and safety training.

(4) Except as provided in paragraph (3) of this subsection, conditionally exempt controlled substances shall be stored, transported, treated and disposed of as hazardous waste in accordance with the requirements of this division and Health and Safety Code, division 20, chapter 6.5.

(5) Any controlled substance, as defined in section 11007 of the Health and Safety Code, which is not a hazardous waste, pursuant to section 66262.11, is not subject to the requirements of this division.

NOTE: Authority cited: Sections 25141, 25150, 25158.4, 25159, 25159.5, 58004 and 58012, Health and Safety Code. Reference: Sections 25117, 25124, 25141, 25143, 25143.1, 25143.2, 25143.4(a), 25143.11, 25158.2, 25158.3, 25159 and 25159.5, Health and Safety Code; 40 CFR Section 261.4.

#### HISTORY

1. New section with renumbering and amendment of former section 66300(g) to section 66261.4(b)(2) filed 5-24-91; operative 7-1-91 (Register 91, No. 22).

2. Repealer of subsection (b)(2) and renumbering of following subsections and amendments filed 6-28-91 as an emergency; operative 6-28-91 (Register 91, No. 41). A Certificate of Compliance must be transmitted to OAL 10-28-91 or emergency language will be repealed by operation of law on the following day.

3. New subsection (e) filed 4-23-92 as an emergency; operative 4-23-92 (Register 92, No. 18). A Certificate of Compliance must be transmitted to OAL 8-21-92 or emergency language will be repealed by operation of law on the following day.

4. Repealer and new subsection (e) filed 6-22-92 as an emergency; operative 6-22-92 (Register 92, No. 26). A Certificate of Compliance must be transmitted to OAL by 10-20-92 or emergency language will be repealed by operation of law on the following day.

5. Repealer of subsection (b)(2) filed 8-25-92; operative 8-25-92 pursuant to Government Code section 11346.2(d) (Register 92, No. 35).

6. Editorial correction of HISTORY 2. (Register 92, No. 35).

7. Editorial correction of HISTORY 2. (Register 92, No. 42).

8. Repealer and new subsection (e) refilled 10-22-92 as an emergency; operative

10-19-92 (Register 92, No. 43). A Certificate of Compliance must be transmitted to OAL 2-22-93 or emergency language will be repealed by operation of law on the following day.

9. Editorial correction of printing error in subsection (d)(1) (Register 92, No. 49).

10. Repealer and new subsection (e) refiled 2-16-93 as an emergency; operative 2-16-93 (Register 93, No. 8). A Certificate of Compliance must be transmitted to OAL 6-16-93 or emergency language will be repealed by operation of law on the following day.

11. Repealer and new subsection (e) filed 6-14-93 as an emergency; operative 6-15-93 (Register 93, No. 25). A Certificate of Compliance must be transmitted to OAL by 10-13-93 or emergency language will be repealed by operation of law on the following day.

12. Repealer and new subsection (e) refiled 10-13-93 as an emergency; operative 10-13-93 (Register 93, No. 42). A Certificate of Compliance must be transmitted to OAL by 2-10-94 or emergency language will be repealed by operation of law on the following day.

13. Certificate of Compliance as to 10-13-93 order with amendments transmitted to OAL 12-3-93 and filed 1-14-94 (Register 94, No. 2).

14. New subsections (e)-(f)(2) and subsection redesignation filed 5-27-94 as an emergency; operative 5-27-94 (Register 94, No. 21). A Certificate of Compliance must be transmitted to OAL by 9-26-94 or emergency language will be repealed by operation of law on the following day.

15. New subsections (e)-(f)(2) and subsection redesignation refiled 9-19-94 as an emergency; operative 9-19-94 (Register 94, No. 38). A Certificate of Compliance must be transmitted to OAL by 1-17-95 or emergency language will be repealed by operation of law on the following day.

16. Editorial correction of subsection (f)(1) (Register 95, No. 2).

17. New subsections (e)-(f)(2) and subsection redesignation refiled 1-13-95 as an emergency; operative 1-13-95 (Register 95, No. 2). A Certificate of Compliance must be transmitted to OAL by 5-15-95 or emergency language will be repealed by operation of law on the following day.

18. Certificate of Compliance as to 1-13-95 order transmitted to OAL 4-10-95 and filed 5-22-95 (Register 95, No. 21).

19. New subsections (a)(4)-(a)(4)(D) and (b)(3) and amendment of Note filed 2-3-98; operative 3-5-98 (Register 98, No. 6).

20. Amendment of subsection (c) filed 8-6-98; operative 8-6-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 32).

21. New subsections (b)(4)-(b)(5)(B) and amendment of Note filed 10-13-98; operative 11-12-98 (Register 98, No. 42).

22. Editorial correction restoring inadvertently deleted subsection (e)(4) (Register 99, No. 12).

23. Amendment of subsections (b)(2)-(4) and Note filed 2-4-2009; operative 2-4-2009 (Register 2009, No. 6).

#### **§66261.6. Requirements for Recyclable Materials.**

(a)(1) Recyclable materials are subject to the applicable requirements for generators, transporters and facilities of articles 1 and 2 of chapter 16 of this division, except as specified otherwise for the materials listed in subsections (a)(2), (a)(3), (a)(4), (a)(5), and (a)(6) of this section.

(2) The following recyclable materials are also regulated under the articles (of chapter 16 of this division) specified below, and all applicable provisions in chapters 20 and 21 of this division:

(A) [RESERVED];

(B) hazardous wastes burned for energy recovery in boilers and industrial furnaces that are not regulated under article 15 of chapter 14 or 15 of this division are regulated under article 8 of chapter 16 of this division.

(C) spent lead-acid storage batteries that are being reclaimed are regulated under article 7 of chapter 16 of this division;

(D) recyclable materials that are being used in agriculture are regulated under article 8.5 of chapter 16 of this division;

(E) waste elemental mercury that is being recycled is regulated under article 9 of chapter 16 of this division.

(3) The following are not subject to regulation under this division, and are not subject to the notification requirements of Health and Safety Code section 25153.6:

(A) materials that can be shown to be recycled by methods identified in subdivisions (b), (c) or (d) of Health and Safety Code section 25143.2; and

(B) scrap metal as defined in section 66260.10. However, scrap metal that meets the definition of a RCRA hazardous waste is not subject to regulation under this division and is not subject to the notification requirements of

Health and Safety Code section 25153.6, only when the scrap metal is being recycled; and

(C) hazardous wastes that exhibit the characteristic of toxicity specified in section 66261.24(a)(1) and do not exhibit any other characteristic of a hazardous waste specified in article 3 of this chapter (commencing with section 66261.20), are not listed in article 4 of this chapter (commencing with section 66261.30), and that qualify as one of the materials specified in 40 CFR section 261.6(a)(3) (incorporated by reference in section 66260.11).

(4) The following are prohibited as specified:

(A) the use of material (e.g., waste, used oil or other material) which is contaminated with dioxin or any other hazardous waste (other than a waste identified solely on the basis of ignitability), for dust suppression or road treatment is prohibited;

(B) the use of used oil as a road oil, dust suppressant or weed control agent is prohibited, except as provided otherwise in Health and Safety Code section 25250.5.

(5) The following hazardous waste, when recycled, is exempt from the restrictions concerning the materials used in a manner constituting disposal or used to produce products that are applied to the land, as provided in Section 25143.2(e) of the Health and Safety Code.

(A) Spent catalyst generated from the Fluid Catalytic cracking (FCC) unit in a petroleum refinery when it is recycled at portland cement kilns as the substitute of alumina and silica in the kiln feed. The concentration of the extractable heavy metals in the FCC catalyst shall not exceed the values given in Table I-C CCWE, Section 66268.106(a) except for nickel and vanadium. The total concentration of nickel and vanadium in the FCC catalyst shall not exceed 3,000 mg/kg, combined.

(6) Hazardous wastes that meet all the following criteria are not subject to regulation under this division but, instead, are subject to regulation as specified in 40 CFR section 261.6(a)(2) (incorporated by reference in section 66260.11):

(A) the hazardous waste exhibits the characteristic of a hazardous waste specified in section 66261.24(a)(1);

(B) the hazardous waste does not exhibit any other characteristic of a hazardous waste specified in article 3 of this chapter (commencing with section 66261.20);

(C) the hazardous waste is not listed in article 4 of this chapter (commencing with section 66261.30);

(D) the hazardous waste is not listed in article 4.1 of this chapter (commencing with section 66261.50); and

(E) the hazardous waste qualifies for regulation pursuant to 40 CFR section 261.6(a)(2) (incorporated by reference in section 66260.11).

(7) Hazardous waste that is exported to or imported from designated member countries of the Organization for Economic Cooperation and Development (OECD) (as defined in 40 CFR section 262.58(a)(1) or section 66262.58(a)(1)) for purpose of recovery is subject to the requirements of 40 CFR Part 262, Subpart H or this article, if it is subject to either the Federal manifesting requirements of 40 CFR Part 262, or to the universal waste management standards of 40 CFR Part 273.

(b) Owners and operators of facilities that store recyclable materials before they are recycled are regulated under all applicable provisions of articles 1 through 12, 27, 28, and 28.5 of chapters 14 and 15 and any applicable provisions of chapters 16, 18, and 20 and the notification requirements under section 3010 of RCRA, except as provided in subsection (a) of this section.

(c) Owners or operators of facilities subject to RCRA permitting requirements with hazardous waste management units that recycle hazardous wastes are subject to the requirements of articles 27 and 28 of chapters 14 or 15.

NOTE: Authority cited: Sections 25143.2(e), 25150, 25159, 25159.5, 25170, 25179.6, 25245, 25250.22 and 58012, Health and Safety Code; Reference: Sections 25143, 25143.2, 25150, 25159, 25159.5, 25163, 25170, 25179.6, 25250.5 and 25250.22, Health and Safety Code; and 40 CFR Sections 261.6 and 266.23.

#### HISTORY

1. New section with renumbering and amendment of former section 66826 to subsection (a)(5), filed 5-24-91; effective 7-1-91 (Register 91, No. 22). A Certificate of Compliance for 5-6-91 order must be transmitted to OAL by 9-3-91 or emergency language will be repealed by operation of law on the following day.
2. Emergency order of 5-6-91 adopting subsection (a)(5) refiled, including further amendments, 9-3-91 as an emergency; operative 9-3-91 (Register 92, No. 17). A Certificate of Compliance must be transmitted to OAL 1-2-92 or emergency language will be repealed by operation of law on the following day.
3. New subsection (a)(5) refiled 4-20-92 as an emergency; operative 4-20-92 (Register 92, No. 21). A Certificate of Compliance must be transmitted to OAL 8-18-92 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 4-20-92 order including amendment of Note transmitted to OAL 8-11-92 and filed 9-23-92 (Register 92, No. 39).
5. Repealer of subsections (a)(2)(B)-(C) filed 6-22-95 as an emergency; operative 6-22-95 (Register 95, No. 25). A Certificate of Compliance must be transmitted to OAL by 10-20-95 or emergency language will be repealed by operation of law on the following day.
6. Repealer of subsections (a)(2)(B)-(C) refiled 10-20-95 as an emergency; operative 10-20-95 (Register 95, No. 42). A Certificate of Compliance must be transmitted to OAL by 2-17-96 or emergency language will be repealed by operation of law on the following day.
7. Repealer of subsections (a)(2)(B)-(C) refiled 3-14-96 as an emergency; operative 3-14-96 (Register 96, No. 11). A

Certificate of Compliance must be transmitted to OAL by 7-12-96 or emergency language will be repealed by operation of law on the following day.

8. Amendment of subsection (a)(2)(E) and NOTE filed 7-1-96; operative 7-31-96 (Register 96, No. 27).

9. Repealer of subsections (a)(2)(B)-(C) refiled 7-9-96 as an emergency; operative 7-9-96 (Register 96, No. 28). A Certificate of Compliance must be transmitted to OAL by 11-6-96 or emergency language will be repealed by operation of law on the following day.

10. Repealer of subsections (a)(2)(B)-(C) refiled 11-1-96 as an emergency; operative 11-1-96 (Register 96, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-3-97 or emergency language will be repealed by operation of law on the following day.

11. Certificate of Compliance as to 11-1-96 order transmitted to OAL 12-23-96 and disapproved 2-6-97 (Register 97, No. 6).

12. Repealer of subsection (a)(2)(B)-(C) filed 2-7-97 as an emergency; operative 2-7-97 (Register 97, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-9-97 or emergency language will be repealed by operation of law on the following day.

13. Change without regulatory effect adding new subsection (a)(2)(B) filed 6-12-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 24).

14. Certificate of Compliance as to 2-7-97 order transmitted to OAL 6-6-97 and disapproved 7-22-97 (Register 97, No. 30).

15. Amendment of subsection (a)(2)(C) and amendment of NOTE filed 7-22-97 as an emergency; operative 7-22-97 (Register 97, No. 30). A Certificate of Compliance must be transmitted to OAL by 11-19-97 or emergency language will be repealed by operation of law on the following day.

16. Change without regulatory effect amending subsection(a)(7) and NOTE filed 8-20-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 34).

17. Certificate of Compliance as to 7-22-97 order, including relettering of subsections (a)(2)(B)-(D), transmitted to OAL 11-19-97 and filed 1-5-98 (Register 98, No. 2).

18. Amendment of subsection (a)(6)(A) and NOTE filed 10-13-98; operative 11-12-98 (Register 98, No. 42).

19. Change without regulatory effect adding new subsections (b) and (c) and amending NOTE filed 6-11-99 pursuant to Health and Safety Code section 25159.1 (Register 99, No. 24).

20. Change without regulatory effect amending subsection (b) filed 6-11-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 24).

21. Change without regulatory effect amending subsection (a)(3)(B) and amending NOTE filed 4-11-2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 15).

22. Amendment of subsection (a)(6)(C), new subsection (a)(6)(D) and subsection relettering filed 2-13-2003; operative 3-15-2003 (Register 2003, No. 7).

23. Change without regulatory effect amending subsection (1)(7) filed 6—7—2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No.24).

#### **§66261.7. Contaminated Containers.**

(a) Except as provided in Section 66262.70 and subsections (g), (h), (i), (k), (l), (m), (n), and (o) of this section, any container (as defined in Section 66260.10 of this division), or inner liner removed from a container, which previously held a hazardous material, including but not limited to hazardous waste, and which is empty as defined in subsection (b) or (d) of this section shall be exempt from regulation under this division and Chapter 6.5 of Division 20 of the Health and Safety Code if it will be managed in accordance with subsection (e) of this section. Existing permits which contain specific conditions governing container cleaning operations which conflict with the provisions of these regulations may be amended to be consistent with this regulation by following the Class 2 permit modification procedures set forth in Section 66270.42(b).

(b) A container, or an inner liner removed from a container, which previously held a hazardous material, including hazardous waste, is empty if the container or the inner liner removed from a container has been emptied so that:

(1) If the hazardous material which the container or inner liner held is pourable, no hazardous material can be poured or drained from the container or inner liner when the container or inner liner is held in any orientation (e.g., tilted, inverted, etc.); and

(2) If the hazardous material which the container or inner liner held is not pourable, no hazardous material remains in or on the container or inner liner that can feasibly be removed by physical methods (excluding rinsing) which comply with applicable air pollution control laws and which are commonly employed to remove materials from that container or inner liner. Following material removal, the top, bottom and sidewalls of such a container shall not contain remaining adhered or crusted material resulting from buildup of successive layers of material or a mass of solidified material. A thin uniform layer or dried material or powder is considered acceptable. A person who treats a container or inner liner onsite by employing physical methods to satisfy the standard in this subsection is authorized to perform such treatment for purposes of Health and Safety Code Section 25201.

(c) A person who treats a container or an inner liner removed from a container of five gallons or less in capacity which has been emptied pursuant to subsection (b) of this section is authorized, for purposes of Health and Safety Code Section 25201, to perform such activities if any rinsate or other residue generated by these activities is completely captured and classified in accordance with the provisions of this division and any applicable waste discharge requirements.

(d) A container or an inner liner removed from a container that has held a material listed as an acute hazardous waste in Sections 261.31, 261.32, or 261.33 (e) Title 40 of the Federal Code of Regulations or a waste which is extremely hazardous pursuant to any of the criteria of Sections 66261.110, 66261.113, and Title 22, California Code of Regulations, Division 4.5, Chapter 11, Appendix X is empty if:

(1) The container or inner liner has been triple rinsed using a solvent capable of removing the waste and all pourable residues have been removed from the container or inner liner in accordance with subsection (b)(1) of this section. Triple rinsing activities shall require specific authorization from the Department unless subject to the provisions of Health and Safety Code Section 25143.2(c)(2); or

(2) The container or inner liner is cleaned by another method that has been shown in the scientific literature, or by tests conducted by the generator, to achieve equivalent removal. Alternative methods to rinsing require prior approval by the Department.

(e) In order to retain the exemption under this section, an empty container or an inner liner removed from a container must be managed by one of the following methods:

(1) Except as otherwise provided in Section 42170 of the Public Resources Code, for containers of five gallons or less in capacity, or inner liners removed from containers of five gallons or less in capacity, by disposing of the container or inner liner at an appropriate solid waste facility, provided that the container or inner liner is packaged and transported in accordance with applicable U.S. Department of Transportation regulations (49 CFR Part 173); or

(2) By reclaiming its scrap value onsite or shipping the container or inner liner to a person who reclaims its scrap value, provided that the container or inner liner is packaged and transported in accordance with applicable U.S. Department of Transportation regulations (49 CFR Part 173); or

(3) By reconditioning or remanufacturing the container or inner liner onsite pursuant to 49 CFR Section 173.28 (c) and (d) (revised at 55 FR 52402 - 52729) for subsequent reuse, or shipping the container or inner liner to a person who reconditions or remanufactures the container or inner liner pursuant to 49 CFR Section 173.28 (c) and (d) (revised at 55 FR 52402 - 52729); or

(4) By shipping the container or inner liner to a supplier or to another intermediate collection location for accumulation prior to managing the container or inner liner pursuant to subsections (e)(1), (e)(2) or (e)(3) of this section, provided that the container or inner liner is packaged and transported in accordance with applicable U.S. Department of Transportation regulations.

(f) A container or an inner liner removed from a container larger than five gallons in capacity which is managed pursuant to subsection (e) of this section shall be marked with the date it has been emptied and shall be managed within one year of being emptied.

(g) Any person who generates an empty container or an inner liner larger than five gallons in capacity which previously held a hazardous material shall maintain, and provide upon request, to the Department, the Environmental Protection Agency, or any local agency or official authorized to bring an action as provided in Health and Safety Code Section 25180 the name, street address, mailing address and telephone number of the owner or operator of the facility where the empty container has been shipped. The above information shall be retained onsite for a period of three years.

(h) Uncontaminated containers, where an inner liner has prevented contact of the hazardous material with the inner surface of the container, are not hazardous waste subject to regulation under this division and Chapter 6.5 of Division 20 of the Health and Safety Code.

(i) Containers or inner liners which previously held a hazardous material which are sent back to the supplier for the purpose of being refilled are exempt from regulation under this division and Chapter 6.5 of Division 20 of the Health and Safety Code if all of the following requirements are met:

(1) The container or inner liner was last used to hold a hazardous material acquired from a supplier of hazardous materials;

(2) The container or inner liner is empty pursuant to the standards set forth in Section 261.7 of Title 40 of the Code of Federal Regulations;

(3) The container or inner liner is returned to a supplier of hazardous materials for the purpose of being refilled, provided that the supplier's reuse of the container or inner liner is in compliance with the requirements of Section 173.28 of Title 49 of the Code of Federal Regulations;

(4) The container or inner liner is not treated prior to being returned to the supplier of hazardous materials, except as authorized by this section;

(5) The container is not treated (except as authorized by this section) by the supplier of hazardous materials without obtaining specific authorization from the Department; and

(6) The container or inner liner is refilled by the supplier with hazardous material which is compatible with the hazardous material which the container or inner liner previously held unless the container has been adequately decontaminated.

(j) If the supplier, upon receiving a container or an inner liner pursuant to subsection (i) of this section, is unable to refill the container or inner liner, the supplier shall empty the container or inner liner pursuant to subsections (b) or (d) of this section and manage the container or inner liner pursuant to subsection (e) of this section.

(k) Emptied household hazardous material and pesticide container, or inner liners removed from containers, of five gallon or less in capacity, are exempt from regulation under this division and Chapter 6.5 of Division 20 of the Health and Safety Code if the container or inner liner is emptied by removing all of the contents that can be removed using practices commonly employed to remove materials from that type of container.

(l) A compressed gas cylinder is exempt from regulation under this division and Chapter 6.5 of Division 20 of



the Health and Safety Code when the pressure in the container approaches atmospheric pressure.

(m)(1) Provided that they are not a RCRA regulated hazardous waste, as defined in Section 66260.10 of this division, aerosol containers are exempt from regulation under this division and Chapter 6.5 of Division 20 of the Health and Safety Code if the aerosol container was emptied of the contents and propellant to the maximum extent practical under normal use (i.e., the spray mechanism was not defective and thus allowed discharge of the contents and propellant).

(2) Unless otherwise exempt under other provisions of law, aerosol containers which held a material listed as an acute hazardous waste in Sections 261.31, 261.32, or a material identified as an acute hazardous waste in Section 261.33(e), Title 40 of the Code of Federal Regulations, or a waste which is extremely hazardous pursuant to any of the criteria of Sections 66261.110, 66261.113, and Title 22, California Code of Regulations, Division 4.5, Chapter 11, Appendix X are not exempt under this section and shall be managed as hazardous waste in accordance with this division and Chapter 6.5 of Division 20 of the Health and Safety Code (commencing with Section 25100).

(3) For purposes of this section, "aerosol container" means a pressurized, sealed container which contains a product and liquified or compressed gases, and which can dispense that product by the activation of a pressure-sensitive valve.

(n) Containers made of wood, paper, cardboard, fabric, or any other similarly absorptive material are not exempt from regulation under this division or Chapter 6.5 of Division 20 of the Health and Safety Code if the container was in direct contact with and has absorbed the hazardous waste or a hazardous material.

(o) The following items are not containers for purposes of this section and should continue to be managed as specified below:

(1) Used oil filters managed pursuant to Section 66266.130 of this division.

(2) PCB or PCB contaminated electrical equipment, including but not limited to, transformers and capacitors managed pursuant to 40 CFR Section 761.60, or Section 66268.29(b) of this division, so that the Soluble Threshold Limit Concentration (STLC) and the Total Threshold Limit Concentration (TTLC) values set forth in Section 66261.24(a)(2) of this division are not exceeded.

(3) Chemotherapy drug intravenous (IV) bags or tubing used for the delivery of chemotherapy agents managed pursuant to Chapter 6.1 of Division 20 of the Health and Safety Code.

(p) The residue remaining in a bulk container (as defined in section 66260.10) that has held hazardous waste is not a hazardous waste, except as provided in subsections (p)(2) and (p)(3), and a facility that receives the bulk container for cleaning or reuse, by such receipt is not receiving offsite waste, if the bulk container is empty as defined in subsection (p)(1) below.

(1) A bulk container that has held hazardous waste is empty if:

(A) for a residue that contains a material described in subsection (d) of this section, the bulk container is empty pursuant to subsection (d); or

(B) for a residue that does not contain a material described in subsection (d), the residue is no more than 0.3% by weight of the total capacity of the bulk container.

(2) The residue in a bulk container that is empty pursuant to subsection (p)(1)(B) of this section is subject to regulation under this division as a hazardous waste when:

(A) the bulk container ceases to be operated for hazardous waste or hazardous material transportation; or

(B) the residue is from hazardous waste that was hazardous by the characteristic of toxicity (as defined in section 66261.24), and, without prior removal of the residue, the bulk container is subsequently used to hold a product or recyclable material which would be reduced in quality, value, or usefulness, rendered non-recyclable, or which would potentially have an adverse effect on human health and/or the environment by commingling with the residue, or

(C) without prior removal of the residue, the bulk container is subsequently used to hold a material that is chemically incompatible with the residue, including, but not limited to, those incompatible materials listed in Appendix V of chapter 14 of this division.

(3) An offsite facility that receives a bulk container that held a hazardous waste is an offsite facility subject to the facility standards of chapters 14, 15, and 20 of this division if:

(A) the bulk container is not empty pursuant to subsection (p)(1); or

(B) the bulk container is empty pursuant to subsection (p)(2), and, without removal of the residue, the bulk container is subsequently used to hold a material that is chemically incompatible with that residue, including, but not limited to, those incompatible materials listed in Appendix V of chapter 14 of this division.

(q) Reserved.

(r) Any container, or inner liner removed from a container, which previously held a hazardous material, including but not limited to hazardous waste, and which is not empty as defined in subsections (b) or (d) of this section, or otherwise exempt from regulation as a hazardous waste under this division or Chapter 6.5 of Division 20 of the Health and Safety Code (commencing with Section 25100), shall be managed as a hazardous waste in accordance with this division and Chapter 6.5 of Division 20 of the Health and Safety Code (commencing with Section 25100).

(s) The generator and transporter shall comply with the provisions of the Sanitary Food Transportation Act of 1990 (Title 49 of the United States Code Section 5701 et seq.) and the National Economic Crossroads Transportation Efficiency Act of 1997 (Title 12 section 12002 et seq.) as applicable.

NOTE: Authority cited: Sections 208, 25141, 25143.2, 25150 and 58012, Health and Safety Code. References:

Sections 208, 25141, 25143.2, 25150, 25159.5 and 58012, Health and Safety Code.; and 40 CFR Section 261.7.

#### HISTORY

1. Renumbering and amendment of former section 66730 to section 66261.7(a)-(g) and new subsection (h) filed 5-24-91; operative 7-1-91 (Register 91, No. 22). A Certificate of Compliance must be transmitted to OAL by 6-28-91 or emergency language, subsections (a)-(g) will be repealed by operation of law on the following day.
2. New section refiled 6-28-91 as an emergency; operative 6-28-91 (Register 91, No. 41). A Certificate of Compliance must be transmitted to OAL by 10-28-91 or emergency language will be repealed by operation of law on the following day.
3. Amendment of subsections (d)-(f) and NOTE filed 10-28-91 as an emergency; operative 10-28-91 (Register 92, No. 13). A Certificate of Compliance must be transmitted to OAL 2-25-92 or emergency language will be repealed by operation of law on the following day.
4. New section with amendments to subsection (a), (c)(1) and (c)(2), new subsection (g), and subsection relettering refiled 3-12-92 as an emergency; operative 3-12-92 (Register 92, No. 22). A Certificate of Compliance must be transmitted to OAL 7-10-92 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 3-12-92 order including amendment of section transmitted to OAL 4-18-92 and filed 5-29-92 (Register 92, No. 25).
6. Editorial correction of subsection (m)(2) (Register 95, No. 42).
7. Repealer of subsection (o)(4), new subsections (p)-(q), subsection relettering, new subsection (s) and amendment of Note filed 10-19-2000; operative 11-18-2000 (Register 2000, No. 42).

#### **§66261.9. Requirements for Universal Waste.**

(a) The hazardous wastes listed in this section are exempt from the management requirements of chapter 6.5 of division 20 of the Health and Safety Code and its implementing regulations except as specified in chapter 23 and, therefore, are not fully regulated as hazardous wastes. The wastes listed in this section are subject to regulation pursuant to chapter 23 and shall be known as "universal wastes."

- (1) Batteries, as described in section 66273.2, subsection (a);
- (2) Electronic devices, as described in section 66273.3, subsection (a);
- (3) Mercury-containing equipment, as described in section 66273.4, subsection (a);
- (4) Lamps, as described in section 66273.5, subsection (a) (including, but not limited to, M003 wastes);
- (5) Cathode ray tubes, as described in section 66273.6, subsection (a);
- (6) Cathode ray tube glass, as described in section 66273.7, subsection (a); and
- (7) Aerosol cans, as specified in Health and Safety Code section 25201.16.

(b) Unless specified otherwise in section 66273.60, universal wastes shall be managed as hazardous wastes pursuant to chapters 10 through 16, 18, and 20 through 22 of this division upon arrival at a destination facility.

NOTE: Authority cited: Sections 25141, 25150, 25150.6, 25201, 25214.9, 25214.10.1, 25219.1 and 58012, Health and Safety Code; and Section 42475.2, Public Resources Code. Reference: Sections 25117.2, 25141, 25150, 25159.5, 25180 – 25196, 25214.5, 25214.9, 25219, 25219.1 and 25219.2, Health and Safety Code; 40 CFR Section 261.9.

#### HISTORY

1. New section filed 3-6-2000 as an emergency; operative 3-6-2000 (Register 2000, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-5-2000 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 6-29-2000 as an emergency; operative 7-6-2000 (Register 2000, No. 26). A Certificate of Compliance must be transmitted to OAL by 11-3-2000 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 11-1-2000 as an emergency; operative 11-4-2000 (Register 2000, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-5-2001 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 3-6-2001 as an emergency; operative 3-6-2001 (Register 2001, No. 10). A Certificate of Compliance must be transmitted to OAL by 7-5-2001 or emergency language will be repealed by operation of law on the following day.
5. New section refiled 6-26-2001 as an emergency; operative 7-5-2001 (Register 2001, No. 26). A Certificate of Compliance must be transmitted to OAL by 11-2-2001 or emergency language will be repealed by operation of law on the following day.
6. Amendment of subsections (a)(2)-(3) and new subsection (a)(4) filed 8-3-2001 as an emergency; operative 8-3-2001 (Register 2001, No. 31). A Certificate of Compliance must be transmitted to OAL by 12-3-2001 or emergency language will be repealed by operation of law on the following day.
7. New section refiled 11-2-2001 as an emergency; operative 11-3-2001 (Register

2001, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-4-2002 or emergency language will be repealed by operation of law on the following day.

8. Amendment of subsections (a)(2)-(3) and new subsection (a)(4) refiled 11-30-2001 as an emergency; operative 11-30-2001 (Register 2001, No. 48). A Certificate of Compliance must be transmitted to OAL by 4-2-2002 or emergency language will be repealed by operation of law on the following day.

9. Certificate of Compliance as to 11-2-2001 order, including further amendment of section, transmitted to OAL 12-27-2001 and filed 2-8-2002 (Register 2002, No. 6).

10. Amendment refiled 3-26-2002 as an emergency; operative 4-12-2002 (Register 2002, No. 13). A Certificate of Compliance must be transmitted to OAL by 8-12-2002 or emergency language will be repealed by operation of law on the following day.

11. Amendment refiled 8-6-2002 as an emergency; operative 8-6-2002 (Register 2002, No. 32). A Certificate of Compliance must be transmitted to OAL by 12-4-2002 or emergency language will be repealed by operation of law on the following day.

12. Amendment of subsection (a) and amendment of Note filed 9-23-2002 as an emergency; operative 9-23-2002 (Register 2002, No. 39). A Certificate of Compliance must be transmitted to OAL by 1-21-2003 or emergency language will be repealed by operation of law on the following day.

13. Amendments in 8-6-2002 order refiled 11-25-2002 as an emergency; operative 12-5-2002 (Register 2002, No. 48). A Certificate of Compliance must be transmitted to OAL by 4-4-2003 or emergency language will be repealed by operation of law on the following day.

14. Certificate of Compliance as to 11-25-2002 order, including amendment of section and Note, transmitted to OAL 12-24-2002 and filed 2-3-2003 (Register 2003, No. 6).

15. Amendment of section and Note filed 2-13-2003; operative 3-15-2003 (Register 2003, No. 7).

16. Amendment of subsection (a)(5) and Note filed 6-7-2004 as an emergency; operative 6-7-2004 (Register 2004, No. 24). Pursuant to Public ResourcesCode section 42475.2, a Certificate of Compliance must be transmitted to OAL by 6-7-2006 or emergency language will be repealed by operation of law on the following day.

17. Amendment of subsection (a)(5) and Note refiled 6-5-2006 as an emergency, including further amendment of Note; operative 6-5-2006 (Register 2006, No. 23). Pursuant to Health and Safety Code section 25214.10.2, this emergency regulation shall remain in effect for a period of two years or until revised by the department, whichever occurs sooner.

18. Amendment of subsection (a)(5) and Note refiled 5-8-2008 as an emergency; operative 5-8-2008 (Register 2008, No. 19). Pursuant to Health and SafetyCode section 25214.10.2, this emergency regulation shall remain in effect for a period of two years or until revised by the department, whichever occurs sooner.

19. Certificate of Compliance as to 5-8-2008 order, including further amendment of section and Note, transmitted to OAL 12-19-2009 and filed 2-4-2009 (Register 2009, No. 6).

#### **§66261.9.5. Requirements for Treated Wood Waste**

Treated wood waste as defined in section 67386.4 when managed as specified in chapter 34 is exempt from the management requirements of chapter 12 through 20.

NOTE: Authority cited: Sections 25150, 25150.7, and 58012, Health and Safety Code. Reference: Section 25150.7, Health and Safety Code.

#### **HISTORY**

1. New section filed 12-27-2006 as an emergency; operative 1-1-2007 (Register 2006, No. 52). A Certificate of Compliance must be transmitted to OAL by 5-1-2007 or emergency language will be repealed by operation of law on the following day.

2. Editorial correction of History 1 (Register 2007, No. 17).

3. New section refiled 4-23-2007 as an emergency; operative 4-30-2007 (Register 2007, No. 17). A Certificate of Compliance must be transmitted to OAL by 8-28-2007 or emergency language will be repealed by operation of law on the following day.
4. Repealer and new section and amendment of Note filed 6-18-2007; operative 7-1-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 25).